

AMENDED IN ASSEMBLY MARCH 3, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 189**

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**Introduced by Assembly Member Eng  
(Coauthors: Assembly Members Fong, Mendoza, Swanson, and  
Torres)**

January 26, 2011

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An act to amend ~~Section 52612 of, and to add Section 52618 to,~~  
*Sections 42605 and 52612 of the Education Code, relating to ~~adult~~  
~~education~~ education funding, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 189, as amended, Eng. ~~Adult education~~—Education funding.

*(1) Existing law establishes various categorical education programs and appropriates the funding for those programs in the annual Budget Act. Existing law requires the Superintendent of Public Instruction, for the 2008–09 to 2012–13 fiscal years, inclusive, to apportion from the amounts provided in the annual Budget Act for specified categorical education programs an amount based on the same relative proportion that the local educational agency received in the 2008–09 fiscal year for those programs and authorizes school districts, for those fiscal years, to use these funds, with specified exceptions, for any educational purpose, to the extent permitted by federal law. Existing law, for those fiscal years, deems local educational agencies that use these categorical education program funds for any educational purpose to be in compliance with the program and funding requirements of those categorical education programs, including requirements related to average daily attendance accounting.*

*This bill would extend the operation of this provision for 2 additional fiscal years, thus extending it through the 2014–15 fiscal year. Commencing with the 2011–12 fiscal year, the bill would require a local educational agency that receives funding pursuant to the above provision to allocate a sufficient amount, as defined, of the funding received from specified Budget Items for the purposes provided for in those items. As a condition of receipt of funds, the bill would also require the governing board of the school district or board of the county office of education, as appropriate, to certify that this sufficient amount of funding has been provided at a regularly scheduled open public hearing. The bill would also make various findings and declarations. By allowing funds appropriated for specified purposes to be expended for any educational purpose for 2 additional fiscal years, the bill would make an appropriation.*

(1)

(2) Existing law authorizes the governing board of a school district maintaining an adult class to require an adult enrolled in the class to pay a fee and prohibits the governing board from imposing a charge for a class in English and citizenship for foreigners or a class in an elementary subject, except as specified.

This bill would remove that prohibition.

~~(2) Existing law establishes various categorical education programs and appropriates the funding for those programs in the annual Budget Act. Existing law requires the Superintendent of Public Instruction, for the 2008–09 to 2012–13 fiscal years, inclusive, to apportion from the amount provided in the annual Budget Act for specified categorical education programs an amount based on the same relative proportion that the local educational agency received in the 2007–08 fiscal year for those programs and authorizes school districts, for those fiscal years, to use these funds, with specified exceptions, for any educational purpose, to the extent permitted by federal law.~~

~~This bill would require school districts receiving specified funding for adult education, which is categorized as flexible categorical education program funding, to expend at least 65% of that adult education funding on adult education programs in a specified manner, commencing with the 2011–12 fiscal year. If a school district chooses not to offer or continue adult education programs, the bill would require the school district to report this fact to the State Department of Education by a specified date and forfeit 65% of the district's flexible categorical education program funding that is designated for adult education. The~~

bill would require the department to allocate the forfeited funding through a request for proposal process to districts offering adult education programs. The bill would encourage school districts to work toward targeted and measurable student outcomes for students taking adult education classes and would state the intent of the Legislature that school districts and county offices of education report adult education attendance in a specified manner and that the department develop a tracking system, and develop and implement a data collection system, to assess outcomes of adult education programs. The bill would require school districts to expend an additional 5% above the 65% requirement on adult education programs for each fiscal year that the flexible categorical education program funding is provided beyond the 2012–13 fiscal year. The bill would require the department to submit an annual report to the Legislature summarizing specified adult education information.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 42605 of the Education Code is amended  
2     to read:  
3     42605. (a) (1) Unless otherwise prohibited under federal law  
4     or otherwise specified in ~~subdivision (e)~~ subdivisions (e) and (g),  
5     for the 2008–09 fiscal year to the ~~2012–13~~ 2014–15 fiscal year,  
6     inclusive, recipients of funds from the items listed in paragraph  
7     (2) may use funding received, pursuant to subdivision (b), from  
8     any of these items listed in paragraph (2) that are contained in ~~an~~  
9     Section 2.00 of the annual Budget Act, for any educational purpose.  
10    (2) Items 6110-104-0001, 6110-105-0001, 6110-108-0001,  
11    6110-122-0001, 6110-123-0001, 6110-124-0001, 6110-137-0001,  
12    6110-144-0001, 6110-150-0001, 6110-151-0001, 6110-156-0001,  
13    6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001,  
14    6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001,  
15    6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-227-0001,  
16    6110-228-0001, 6110-232-0001, 6110-240-0001, 6110-242-0001,  
17    6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001,  
18    6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001,  
19    6110-266-0001, 6110-267-0001, 6110-268-0001, and  
20    6360-101-0001 of Section 2.00.

(b) (1) For the 2009–10 fiscal year to the ~~2012–13~~ 2014–15 fiscal year, inclusive, the Superintendent or other administering state agency, as appropriate, shall apportion from the amounts provided in the annual Budget Act for the items enumerated in paragraph (2) of subdivision (a) an amount to recipients based on the same relative proportion that the recipient received in the 2008–09 fiscal year for the programs funded through the items enumerated in paragraph (2) of subdivision (a).

(2) This section and Section 42 of Chapter 12 of the 2009–10 Third Extraordinary Session do not authorize a school district that receives funding on behalf of a charter school pursuant to Sections 47634.1 and 47651 to redirect this funding for another purpose unless otherwise authorized in law or pursuant to an agreement between a charter school and its chartering authority. Notwithstanding paragraph (1), for the 2008–09 fiscal year to the ~~2012–13~~ 2014–15 fiscal year, inclusive, a school district that receives funding on behalf of a charter school pursuant to Sections 47634.1 and 47651 shall continue to distribute the funds to those charter schools based on the relative proportion that the school district distributed in the 2007–08 fiscal year, and shall adjust those amounts to reflect changes in charter school attendance in the district. The amounts allocated shall be adjusted for any greater or lesser amount appropriated for the items enumerated in paragraph (2) of subdivision (a). For a charter school that began operation in the 2008–09 fiscal year, if a school district received funding on behalf of that charter school pursuant to Sections 47634.1 and 47651, the school district shall continue to distribute the funds to that charter school based on the relative proportion that the school district distributed in the 2008–09 fiscal year and shall adjust the amount of those funds to reflect changes in charter school attendance in the district. The amounts allocated shall be adjusted for any greater or lesser amount appropriated for the items enumerated in paragraph (2) of subdivision (a).

(3) Notwithstanding paragraph (1), for the 2008–09 fiscal year to the ~~2012–13~~ 2014–15 fiscal year, inclusive, the Superintendent shall apportion from the amounts appropriated by Item 6110-211-0001 of Section 2.00 of the annual Budget Act an amount to a charter school in accordance with the per-pupil methodology prescribed in subdivision (c) of Section 47634.1.

(4) Notwithstanding paragraph (1), for the 2008–09 fiscal year to the ~~2012–13~~ 2014–15 fiscal year, inclusive, the Superintendent shall apportion from the amounts provided in *Section 2.00* of the annual Budget Act an amount to a school district, charter school, and county office of education based on the same relative proportion that the local educational agency received in the 2007–08 fiscal year for the programs funded through the following items contained in the annual Budget Act: 6110-104-0001, 6110-105-0001, 6110-156-0001, 6110-190-0001, Schedule (3) of 6110-193-0001, 6110-198-0001, 6110-232-0001, and Schedule (2) of 6110-240-0001.

(5) For purposes of paragraph (4), if a direct-funded charter school began operation in the 2008–09 fiscal year, the amount that the charter school was entitled to receive from the items enumerated in paragraph (4) for the 2008–09 fiscal year, as certified by the Superintendent in March 2009, is deemed to have been received in the 2007–08 fiscal year.

(c) (1) This section does not obligate the state to refund or repay reductions made pursuant to this section. A decision by a school district to reduce funding pursuant to this section for a state-mandated local program shall constitute a waiver of the subvention of funds that the school district is otherwise entitled to pursuant to Section 6 of Article XIII B of the California Constitution on the amount so reduced.

(2) As a condition of receipt of funds, the governing board of the school district or board of the county office of education, as appropriate, at a regularly scheduled open public hearing shall ~~take~~ *do both of the following*:

(A) *Take* testimony from the public, discuss, approve or disapprove the proposed use of funding, and make explicit for each of the budget items in paragraph (2) of subdivision (a) the purposes for which the funds will be used.

(B) *Certify that a sufficient amount of funding has been provided pursuant to paragraph (1) of subdivision (g).*

(3) Using the Standardized Account Code Structure reporting process, a local educational agency shall report expenditures of funds pursuant to the authority of this section by using the appropriate function codes to indicate the activities for which these funds are expended. The department shall collect and provide this information to the Department of Finance and the appropriate

1 policy and budget committees of the Legislature by April 15, 2010,  
2 and annually thereafter on April 15 until, and including, April 15,  
3 ~~2014~~ 2016.

4 (d) For the 2008–09 fiscal year to the ~~2012–13~~ 2014–15 fiscal  
5 year, inclusive, local educational agencies that use the flexibility  
6 provision of this section shall be deemed to be in compliance with  
7 the program and funding requirements contained in statutory,  
8 regulatory, and provisional language, associated with the items  
9 enumerated in subdivision (a).

10 (e) Notwithstanding subdivision (d), the following requirements  
11 shall continue to apply:

12 (1) For Items 6110-105-0001 and 6110-156-0001 *of Section*  
13 *2.00 of the annual Budget Act*, the amount authorized for flexibility  
14 shall exclude the funding provided for instruction of  
15 CalWORKs-eligible students pursuant to Schedules (2) and (3)  
16 and Provisions 2 and 4.

17 (2) (A) Any instructional materials purchased by a local  
18 educational agency shall be the materials adopted by the state  
19 board for kindergarten and grades 1 to 8, inclusive, and for grades  
20 9 to 12, inclusive, the materials purchased shall be aligned with  
21 state standards as defined by Section 60605, and shall also meet  
22 the reporting and sufficiency requirements contained in Section  
23 60119.

24 (B) For purposes of this section, “sufficiency” means that each  
25 pupil has sufficient textbooks and instructional materials in the  
26 four core areas as defined by Section 60119 and that all pupils  
27 within the local educational agency who are enrolled in the same  
28 course shall have identical textbooks and instructional materials,  
29 as specified in Section 1240.3.

30 (3) For Item 6110-195-0001 *of Section 2.00 of the annual Budget*  
31 *Act*, the item shall exclude moneys that are required to fund awards  
32 for teachers that have previously met the requirements necessary  
33 to obtain these awards, until the award is paid in full.

34 (4) For Item 6110-266-0001 *of Section 2.00 of the annual Budget*  
35 *Act*, a county office of education shall conduct at least one site  
36 visit to each of the required schoolsites pursuant to Section 1240  
37 and shall fulfill all of the duties set forth in Sections 1240 and  
38 44258.9.

39 (5) For Item 6110-198-0001 *of Section 2.00 of the annual Budget*  
40 *Act*, a school district or county office of education that operates

1 the child care component of the Cal-SAFE program shall comply  
2 with paragraphs (5) and (6) of subdivision (c) of Section 54746.

3 (f) This section does not invalidate any state law pertaining to  
4 teacher credentialing requirements or the functions that require  
5 credentials.

6 (g) (1) *Notwithstanding subdivision (d), commencing with the*  
7 *2011–12 fiscal year, a local educational agency that receives*  
8 *funding pursuant to this section shall allocate a sufficient amount*  
9 *of funding received from the items listed in paragraph (2) for the*  
10 *purposes provided for in those items. For purposes of this*  
11 *paragraph, a “sufficient amount” means maintaining a sufficient*  
12 *level of instruction services for each of the programs funded by*  
13 *the items listed in paragraph (2), to the extent that the local*  
14 *educational agency shall be able to reinstate full funding for the*  
15 *programs upon the expiration of the funding flexibility authorized*  
16 *pursuant to this section.*

17 (2) *This subdivision shall apply to Items 6110-104-0001,*  
18 *6110-105-0001, 6110-156-0001, and 6110-204-0001 of Section*  
19 *2.00 of the annual Budget Act.*

20 (3) *The Legislature finds and declares both of the following:*

21 (A) *The funding flexibility authorized pursuant to this section*  
22 *is for the purpose of assisting local educational agencies in*  
23 *responding to the state’s current fiscal emergency and is intended*  
24 *to last only for the duration of the fiscal emergency.*

25 (B) *It is the intent of the Legislature that, after a local*  
26 *educational agency makes the determination that a sufficient*  
27 *amount of funding has been allocated pursuant to paragraph (1),*  
28 *the local educational agency should ensure that there are an*  
29 *adequate number of administrative and credentialed teaching staff*  
30 *to provide a baseline level of core courses during the period that*  
31 *funding flexibility is authorized pursuant to this section, so that*  
32 *there is sufficient staffing to fully expand programmatic offerings*  
33 *upon the expiration of the funding flexibility.*

34 **SECTION 1.**

35 **SEC. 2.** Section 52612 of the Education Code is amended to  
36 read:

37 52612. (a) Except as specified in this section, the governing  
38 board of the district maintaining the class may require an adult  
39 enrolled in a class for adults to pay a fee for the class. A fee charge  
40 shall not be made for a class designated by the governing board

1 as a class for which high school credit is granted when the class  
2 is taken by a person who does not hold a high school diploma. The  
3 total of the fees required and revenues derived from average daily  
4 attendance shall not exceed the estimated cost of all such classes  
5 maintained, including the reserves authorized by Section 52501.5.

6 (b) All textbooks and classroom materials furnished without  
7 charge under this section may also be offered for sale at the school  
8 bookstore.

9 ~~SEC. 2. Section 52618 is added to the Education Code, to read:~~

10 ~~52618. (a) Notwithstanding Section 42605, and unless~~  
11 ~~otherwise prohibited by federal law, commencing with the 2011–12~~  
12 ~~fiscal year, school districts receiving funding for adult education~~  
13 ~~pursuant to Item 6110-156-0001 of Section 2.00 of the annual~~  
14 ~~Budget Act, which is categorized as tier III maximum categorical~~  
15 ~~in digest flexibility funding pursuant to Section 42605, shall expend~~  
16 ~~at least 65 percent of that adult education funding on adult~~  
17 ~~education programs in the following manner:~~

18 ~~(1) Sixty-five percent shall be reserved for offering classes and~~  
19 ~~courses to students in the following core areas, as specified in~~  
20 ~~paragraphs (2), (3), and (6) of Section 41976, and may be~~  
21 ~~distributed among the core areas based on local priorities and~~  
22 ~~needs:~~

23 ~~(A) Adult education programs in elementary and secondary~~  
24 ~~basic skills and other classes and courses required for the high~~  
25 ~~school diploma.~~

26 ~~(B) Adult education programs in English as a second language.~~

27 ~~(C) Adult short-term career technical education programs with~~  
28 ~~higher employment potential.~~

29 ~~(2) Ten percent shall be reserved for providing career training~~  
30 ~~equipment or support services, including, but not limited to, career~~  
31 ~~counseling and other programs that lead to a student's acceptance~~  
32 ~~to a postsecondary educational institution. The Superintendent~~  
33 ~~shall apportion these funds based on the total amount of funds~~  
34 ~~available divided by the level of career technical education student~~  
35 ~~enrollment in each district, taking into consideration a district's~~  
36 ~~achievement of targeted and measurable student outcomes pursuant~~  
37 ~~to subdivision (b).~~

38 ~~(3) Twenty-five percent shall be reserved for the receiving~~  
39 ~~school district to use in a flexible manner for adult education~~  
40 ~~programs. Funds allocated pursuant to this paragraph shall be~~



1 prioritized based on local community need. Adult education classes  
2 or courses funded by this paragraph need not be restricted to the  
3 core areas specified in paragraph (1), but a class or course offered  
4 that is not specified in paragraph (1) shall have defined student  
5 outcomes.

6 (b) ~~School districts are encouraged to work toward targeted and~~  
7 ~~measurable student outcomes for students taking adult education~~  
8 ~~classes, which should include, but not be limited to, all of the~~  
9 ~~following:~~

10 (1) ~~Increasing the number of students earning a high school~~  
11 ~~diploma or General Educational Development (GED) equivalent.~~

12 (2) ~~Increasing the number of students who matriculate to~~  
13 ~~community colleges, the California State University, the University~~  
14 ~~of California, private postsecondary educational institutions, or~~  
15 ~~vocational programs.~~

16 (3) ~~Increasing the number of students who are employable or~~  
17 ~~are able to get a promotion.~~

18 (4) ~~Increasing opportunities for an adult school to work with~~  
19 ~~workforce investment boards and local employers to achieve~~  
20 ~~improved job placement for students.~~

21 (5) ~~Increasing the number of students who are able to access a~~  
22 ~~naturalization and citizenship program.~~

23 (6) ~~Creating opportunities for students to qualify for military~~  
24 ~~service.~~

25 (e) ~~Consistent with subdivision (d) of Section 42605, and except~~  
26 ~~as provided for in paragraph (1) of subdivision (a), a school district~~  
27 ~~that receives funding pursuant to this section shall be deemed to~~  
28 ~~be in compliance with all applicable adult education program and~~  
29 ~~funding requirements contained in statutory, regulatory, and~~  
30 ~~provisional language.~~

31 (d) ~~Notwithstanding Section 42605, school districts that choose~~  
32 ~~not to offer or continue adult education programs shall notify the~~  
33 ~~State Department of Education on or before March 15th of each~~  
34 ~~applicable year and shall forfeit the 65 percent of the district's tier~~  
35 ~~III maximum categorical flexibility funding that is required to be~~  
36 ~~used for adult education programs pursuant to subdivision (a). The~~  
37 ~~department shall appropriate the forfeited funding through a request~~  
38 ~~for proposal process to school districts that offer adult education~~  
39 ~~programs. Funds apportioned under this subdivision shall only be~~  
40 ~~used for adult education programs.~~

1     ~~(e) (1) It is the intent of the Legislature that, commencing with~~  
2     ~~the 2011–12 fiscal year, school districts and county offices of~~  
3     ~~education shall report adult education attendance by utilizing the~~  
4     ~~Standardized Account Code Structure reporting process in effect~~  
5     ~~prior to July 28, 2009.~~

6     ~~(2) It is the intent of the Legislature that the department shall~~  
7     ~~develop a tracking system, and develop and implement a data~~  
8     ~~collection system, to assess outcomes of adult education programs~~  
9     ~~as outlined in subdivision (b).~~

10    ~~(f) For each fiscal year that tier III maximum categorical~~  
11    ~~flexibility funding is provided beyond the 2012–13 fiscal year,~~  
12    ~~school districts shall expend an additional 5 percent above the 65~~  
13    ~~percent required by subdivision (a) on adult education programs.~~

14    ~~(g) The department shall submit an annual report to the~~  
15    ~~Legislature that summarizes both of the following:~~

16    ~~(1) The core adult education classes and courses offered pursuant~~  
17    ~~to paragraph (1) of subdivision (a) and the number of students~~  
18    ~~served by those classes and courses.~~

19    ~~(2) The growth in career technical education programs that have~~  
20    ~~been expanded or started in adult schools.~~